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**Apr 06 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

Roger M. Young, Circuit Court Judge

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Appellate Case No. 2022-001385  
Case No. 2017-CP-08-02238

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Matthew Zetz,

Appellant,

v.

Daniel Island Company, Inc.,

Respondent.

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**RECORD ON APPEAL – VOLUME 6**

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POULIN | WILLEY | ANASTOPOULO, LLC

BARNWELL WHALEY  
PATTERSON & HELMS, LLC

Angeline M. Larrivee (SC #105466)  
Roy T. Willey, IV (SC #101010)  
Eric Poulin (SC #100209)  
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Kenneth Michael Barfield (SC #69400)  
Diane Summers Clarke, II (SC #74829)  
211 King Street, Suite 300  
Charleston, SC 29401  
(843)577-7700

**Attorneys for the Appellant**

**Attorneys for the Respondent**

1 this case. There are layers of corporations here. They are  
2 afforded corporate protections. They had an opportunity to  
3 conduct discovery to determine if there was any  
4 nefariousness, any ill intent. By their own admission,  
5 they've not discovered it and so now they're trying to pivot  
6 and apply a different body of law that simply does not apply  
7 here.

8 MR. JEFFERIES: Very briefly, Your Honor. It's not  
9 veil piercing, it's not amalgamation. Mr. Barfield is  
10 absolutely right, corporations are separate entities. And  
11 when they take action, when they do things, they can put  
12 themselves on the hook. Just like when I take action, if I  
13 hire somebody, if I engage somebody. If an entity obtains  
14 control over another entity and causes it to do something  
15 bad, it has itself by exercising that control put itself on  
16 the hook for liability. It wasn't on the hook originally,  
17 it's a separate thing, but when it acts or fails to act  
18 where it should have acted, by virtue of that level of  
19 control, it's just like anybody else, it has put itself in  
20 that chain of liability. Same as the Wal-Mart manager. And  
21 we'll brief that out with respect to the --

22 THE COURT: I tell you what I'll do, I'll give you till  
23 noon tomorrow to give me a supplemental brief, then I'll  
24 give you till noon the following day to respond.

25 MR. JEFFERIES: Thank you, Judge.

1 MR BARFIELD: Thank you.

2 THE COURT: Thank you.

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CERTIFICATE OF TRANSCRIBER

1  
2  
3 I, PENNY M. JOHNSON, do hereby certify that the  
4 foregoing transcript is a true and correct record of the  
5 recorded proceedings; that said proceedings were transcribed  
6 to the best of my ability from the audio recording and  
7 supporting information; and that I am neither counsel for,  
8 related to, nor employed by any of the parties to this case,  
9 and I have no interest, financial or otherwise, in its  
10 outcome.

11  
12 September 15, 2022

13  
14  
15 Penny M. Johnson  
16 Penny M. Johnson  
17 Court Reporter III  
18  
19  
20  
21  
22  
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24  
25

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) NINTH JUDICIAL CIRCUIT  
COUNTY OF BERKELEY ) C/A No. 2017-CP-08-02238

Matthew Zetz, )  
 )  
 ) Plaintiff, )

vs. )

Daniel Island Company, Inc., Daniel Island )  
Community Foundation, Inc., Daniel Island )  
Town Association, Inc., Daniel Island )  
Community Association, Inc., and MGR )  
Resources, Inc. d/b/a Moonlighting )  
Landscape Lighting Systems, )  
 )  
 ) Defendants. )

**AFFIDAVIT OF AMY MOYER IN  
SUPPORT OF DANIEL ISLAND  
COMPANY, INC.'S MOTION FOR  
SUMMARY JUDGMENT**

PERSONALLY appeared before me Amy Moyer, who having first been duly sworn, deposes and on oath says:

1. My name is Amy Moyer.
2. I am a resident of Daniel Island in Berkeley County, South Carolina.
3. I have been employed by The Daniel Island Company, Inc. ("DIC) since 1999.
4. Over the time that I have been employed by DIC, I have served in the roles of Director of Finance, Vice President of Finance, and Chief Financial Officer.
5. I am personally familiar with the details surrounding the development and sales of a number of the public parks on Daniel Island, including the Children's Park where Mr. Zetz fell and injured himself.
6. Prior to its development, Daniel Island was a privately owned hunting preserve.
7. When the owners of the island decided to develop it for commercial and residential purposes, they worked very closely with the City of Charleston to determine the parameters of such a large scale development project.
8. One of the City of Charleston's requirements for the development of the island was that it must include a number public parks.

9. DIC took title to a piece of property on the island that included the parcel where the Children's Park was later constructed.

10. DIBS-Sales Center, LLC was a wholly owned subsidiary of DIC and a single purpose entity created to build and own a sales office across the street from the Children's Park.

11. DIC conveyed approximately 8.33 acres to DIBS-Sales Center, LLC on March 24, 1999, which property included the sales center site, future Children's Park and other park areas, and the future River Landing Drive.

12. To the best of my recollection, on November 9, 1998, DIC retained the services of Lee Skolnick Architecture and Design Partnership ("Skolnick") to design the Children's Park.

13. Skolnick then retained the services of DesignWorks, LLC to function as the local architect of record.

14. DIC contracted with The Greenery to build the park as designed by Skolnick and its subcontractors.

15. The Greenery subcontracted with a lighting designer called Moonlighting to design and install the aesthetic lighting in the park.

16. By a deed dated December 20, 2000 and recorded on December 29, 2000, after Children's Park was completed, DIBS-Sales Center, LLC conveyed the Children's Park property and other park areas to the Daniel Island Town Center Owners Association, Inc. (now known as Daniel Island Town Association, Inc.) in keeping with the City of Charleston's Daniel Island Master Plan.

17. Conveying common area amenities and open space to the property owners' association is a routine part of any planned unit development project, including Daniel Island.

18. The Development Agreement for Daniel Island dated June 1, 1995, provides, "All parks and other similar features shall be dedicated to the City upon completion by a Developer in accordance with the Land Development Regulations with the exception of those tracts of land with the improvements located thereon which an Owner Party or Developer may elect to convey to a non-profit property owners' association. All roads shall be built in accordance with road standards

of the City of Charleston, except where deviation therefrom may be permitted by permit in connection with the project shall be subject to all city-imposed application processing and permit fees and charges with respect to applications for development and construction within the property which are in effect on the date on which each application is filed so long as such fees and charges are in force and effect on a citywide basis.”

19. DIBS-Sales Center, LLC’s conveyance of Children’s Park and the other park areas to the Daniel Island Town Association, Inc. in 2000 was exempt from recording fees and such conveyance was in fulfillment of the Owner Party obligations under the Development Agreement.

20. DIC has had no role in the management or maintenance of the Children’s Park since construction was completed in 2001.

Further Affiant sayeth naught.

  
\_\_\_\_\_  
Amy Moyer

SWORN TO AND SUBSCRIBED before me

This 12 day of October, 2020

  
\_\_\_\_\_

Notary Public for South Carolina  
My Commission expires: ~~July 23, 2023~~  
3-28-28



STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 ) NINTH JUDICIAL CIRCUIT  
COUNTY OF BERKELEY ) C/A No. 2017-CP-08-02238

Matthew Zetz, )  
 )  
 ) Plaintiff, )

vs. )

Daniel Island Company, Inc., Daniel Island )  
Community Foundation, Inc., Daniel Island )  
Town Association, Inc., Daniel Island )  
Community Association, Inc., and MGR )  
Resources, Inc. d/b/a Moonlighting )  
Landscape Lighting Systems, )  
 )  
 ) Defendants. )

**ADDENDUM TO THE  
AFFIDAVIT OF AMY MOYER IN  
SUPPORT OF DANIEL ISLAND  
COMPANY, INC.'S MOTION FOR  
SUMMARY JUDGMENT**

PERSONALLY appeared before me Amy Moyer, who having first been duly sworn, deposes and on oath says:

1. My name is Amy Moyer.
2. I am a resident of Daniel Island in Berkeley County, South Carolina.
3. There were two errors with regard to dates in my affidavit of October 12, 2020.
4. Paragraph 12 contains the date November 9, 1998 as the date that DIC contracted with architect Lee Skolnick. That date was left in the affidavit in error from an earlier draft. I do not know exactly when DIC retained Skolnick's services.

5. Paragraph 16 states that the Children's Park was conveyed to the Daniel Island Town Association on December 29, 2000 *after Children's Park was completed*. While construction was mostly complete at that time, the park was not complete until late 2001 or early 2002. DIC fulfilled its obligation to complete the park after it was conveyed to DITA but has had no ownership interest in or control over the park since its completion.

Further Affiant sayeth naught.

Amy Moyer  
Amy Moyer

SWORN TO AND SUBSCRIBED before me

This 14<sup>th</sup> day of October, 2020

Maggie R. Dusbiber  
Notary Public for South Carolina

My Commission expires: 10/16/24



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APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Appellate Case No. 2022-001385  
Berkeley County Case No. 2017-CP-08-02238

Matthew Zetz, Appellant,  
v.  
Daniel Island Company, Inc., Respondent.

**CERTIFICATE OF COUNSEL**

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/ Angeline M. Larrivee  
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March 21, 2023  
Williamston, SC